

### **REMARKS**

In the Office Action dated September 2, 2008, Claims 1 – 12 are pending in this application. The Examiner has made a restriction requirement and presented the following two distinct inventions for election:

- I. Claims 1 – 10 and 12, drawn to a product – a theaflavin composition (produced by a two-step process), classified in class 514, subclass 456, for example (“Invention I”); and
- II. Claim 11, drawn to an enzymatic process for making a tea theaflavin product, classified in class 424, subclass 729, for example (“Invention II”).

This restriction requirement is made without traverse.

### **RESTRICTION REQUIREMENT**

In response to the Examiner’s restriction requirement, the Applicant elects Claims 1 – 10 and 12; therefore, Claim 11 is withdrawn as currently appearing in the application.

### **FEE STATEMENT**

The total number of claims has been reduced by way of the present Response. Accordingly, Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2816, under Order No. 027141.0112C3US from which the undersigned is authorized to draw.

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**CONCLUSION**

In view of the above amendments and remarks, Applicant believes the pending application is in a condition for allowance. Accordingly, a favorable action in the form of an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned for any reason that would advance the instant application to issue.

Respectfully submitted,

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